

MONTANA LEGISLATIVE HISTORY

Chapter 351 1995

Bill H 347 S _____ Original bill & history / c

H. Committee on JUDICIARY

Hearing Date(s) 2/6 X C

Exec. ACTION 2/8 X C

_____ C

_____ C

Date Out _____ C

S. Committee on JUDICIARY

Hearing Date(s) 3/8 X C

& Exec ACTION _____ C

_____ C

_____ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

4/11 REVISED FISCAL NOTE PRINTED
DIED IN COMMITTEE

HB 346 INTRODUCED BY ELLIOTT, ET AL.
PROVIDE AN INDIVIDUAL INCOME TAX CREDIT AGAINST PROPERTY TAXES
PAID ON THE TAXPAYER'S PRINCIPAL RESIDENCE

1/26 INTRODUCED
1/26 FIRST READING
1/26 REFERRED TO TAXATION
1/27 FISCAL NOTE REQUESTED
1/31 FISCAL NOTE RECEIVED
1/31 FISCAL NOTE PRINTED
2/02 HEARING
3/14 COMMITTEE REPORT—BILL PASSED AS AMENDED
3/16 REVISED FISCAL NOTE RECEIVED, AS AMENDED
BY TAXATION COMMITTEE
3/16 REVISED FISCAL NOTE PRINTED 85 14
3/18 2ND READING PASSED AS AMENDED 85 14
3/20 3RD READING PASSED

TRANSMITTED TO SENATE
3/21 FIRST READING
3/21 REFERRED TO TAXATION
3/24 HEARING
DIED IN COMMITTEE

HB 347 INTRODUCED BY KOTTEL, ET AL.
GENERALLY REVISE LAW RELATING TO CRIME OF THREATENING PUBLIC
OFFICIALS

1/26 INTRODUCED
1/26 FIRST READING
1/26 REFERRED TO JUDICIARY
2/06 HEARING
2/10 COMMITTEE REPORT—BILL PASSED AS AMENDED
2/11 2ND READING PASSED 76 22
2/13 3RD READING PASSED 75 24

TRANSMITTED TO SENATE
2/20 FIRST READING
2/20 REFERRED TO JUDICIARY
3/08 HEARING
3/09 COMMITTEE REPORT—BILL CONCURRED
3/10 2ND READING CONCURRED AS AMENDED 43 0
3/11 3RD READING CONCURRED 39 0
(SENATE 3RD READING VOTE REMAINED OPEN
TO ALLOW EXCUSED SENATORS TO VOTE)
3/13 3RD READING CONCURRED 49 0
3/14 3RD READING CONCURRED 50 0

RETURNED TO HOUSE WITH AMENDMENTS
4/03 2ND READING AMENDMENTS CONCURRED 83 17
4/04 3RD READING AMENDMENTS CONCURRED 76 22
4/07 SIGNED BY SPEAKER
4/07 SIGNED BY PRESIDENT
4/10 TRANSMITTED TO GOVERNOR
4/11 SIGNED BY GOVERNOR
CHAPTER NUMBER 351
EFFECTIVE DATE: 04/11/95

HB 348 INTRODUCED BY HARPER, ET AL.

PROVIDE FOR REGULATION OF RECREATIONAL AND COMMERCIAL USE
OF MONTANA'S PUBLIC WATERS IN CERTAIN CASES BY ALLOWING
FISH, WILDLIFE, AND PARKS COMMISSION AND BOARD OF OUTFITTERS
TO ADOPT AND ENFORCE RULES TO ADDRESS IMPACTS CAUSED BY
RECREATIONAL USERS, PRESERVE DIVERSITY OF RECREATIONAL
OPPORTUNITIES, MINIMIZE RECREATIONAL USER CONFLICTS, OR
PROTECT THE PUBLIC HEALTH, PUBLIC SAFETY, OR PROPERTY

1/27 INTRODUCED
1/27 FIRST READING
1/27 REFERRED TO FISH & GAME
1/28 FISCAL NOTE REQUESTED
2/03 FISCAL NOTE RECEIVED
2/04 FISCAL NOTE PRINTED
2/09 HEARING
2/17 COMMITTEE REPORT—BILL PASSED AS AMENDED
2/20 2ND READING DO PASS AS AMENDED MOTION 41 56
FAILED

HB 349 INTRODUCED BY RANEY, ET AL.

CREATE THE FUTURE FISHERIES IMPROVEMENT PROGRAM

1/27 INTRODUCED
1/27 FIRST READING
1/27 REFERRED TO FISH & GAME
1/28 FISCAL NOTE REQUESTED
2/03 FISCAL NOTE RECEIVED
2/04 FISCAL NOTE PRINTED
2/09 HEARING
3/16 COMMITTEE REPORT—BILL PASSED AS AMENDED
3/16 REREFERRED TO APPROPRIATIONS
3/17 COMMITTEE REPORT—BILL PASSED
3/23 2ND READING PASSED 76 22
3/23 3RD READING PASSED 81 18

TRANSMITTED TO SENATE
3/24 FIRST READING
3/24 REFERRED TO FISH & GAME
3/27 HEARING
3/28 COMMITTEE REPORT—BILL CONCURRED AS AMENDED
3/29 2ND READING CONCURRED 33 17
3/30 3RD READING CONCURRED 31 19

RETURNED TO HOUSE WITH AMENDMENTS
4/05 2ND READING AMENDMENTS CONCURRED 82 18
4/06 3RD READING AMENDMENTS CONCURRED 72 27
4/08 SIGNED BY SPEAKER
4/10 SIGNED BY PRESIDENT
4/10 TRANSMITTED TO GOVERNOR
4/14 SIGNED BY GOVERNOR
CHAPTER NUMBER 463
EFFECTIVE DATE: 04/14/95—SECTIONS 1, 2, 4-6
EFFECTIVE DATE: 07/01/95—SECTION 3

HB 350 INTRODUCED BY PECK, ET AL.

CLARIFY AUTHORITY OF BOARD OF LAND COMMISSIONERS OVER ALL
STATE LAND

1/27 INTRODUCED
1/27 FIRST READING
1/27 REFERRED TO NATURAL RESOURCES
2/08 HEARING

House BILL NO. 347

INTRODUCED BY

W. Kohl, Bartlett Hurdle Shea Hendrickson Carey

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAW RELATING TO THE CRIME OF THREATENING PUBLIC OFFICIALS; EXPANDING THE OFFENSE OF THREATENING A PUBLIC OFFICIAL TO INCLUDE INJURY TO THE PUBLIC OFFICIAL'S PERSON OR PROPERTY; REVISING THE PENALTY FOR THREATENING A PUBLIC OFFICIAL; INCREASING THE PENALTY FOR IMPERSONATING A PUBLIC OFFICIAL; AND AMENDING SECTIONS 45-7-102 AND 45-7-209, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-7-102, MCA, is amended to read:

"45-7-102. Threats and other improper influence in official and political matters. (1) A person commits an offense under this section if ~~he~~ the person purposely or knowingly:

(a)(i) threatens ~~unlawful~~ harm to any person or the person's property with the purpose to influence ~~his~~ the person's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;

(b)(ii) threatens harm to any public servant or to the public servant's property with the purpose to influence ~~his~~ the public servant's decision, opinion, recommendation, vote, or other exercise of discretion in a judicial or administrative proceeding;

(c)(iii) threatens harm to any public servant or party official or the person's property with the purpose to influence ~~him~~ the person to violate ~~his~~ the person's duty or to prevent the public servant or party official from accepting or holding any public office;

(d)(iv) privately addresses to any public servant who has or will have official discretion in a judicial or administrative proceeding any representation, entreaty, argument, or other communication designed to influence the outcome on the basis of considerations other than those authorized by law; ~~or~~

(e)(v) as a juror or officer in charge of a jury receives or permits to be received any communication relating to any matter pending before ~~such~~ the jury, except according to the regular course of proceedings; ~~or~~

(b) injures the person or property of a public servant because of the public servant's lawful

1 discharge of the duties of the office or to prevent the public servant from discharging the public servant's
 2 official duties.

3 (2) It is no defense to prosecution under subsections (1)(a)(i) through ~~(1)(d)~~ (1)(a)(iv) and (1)(b) that
 4 a person whom the offender sought to influence was not qualified to act in the desired way, whether
 5 because ~~he~~ the person had not yet assumed office or lacked jurisdiction or for any other reason.

6 (3) A person convicted under this section ~~shall be fined not to exceed \$500 or imprisoned in the~~
 7 ~~county jail for any term not to exceed 6 months, or both, unless the offender threatened to commit an~~
 8 ~~offense or made a threat with the purpose to influence a judicial or administrative proceeding, in which case~~
 9 ~~the offender shall be fined not to exceed \$50,000~~ \$5,000 or be imprisoned in the state prison for any
 10 term not to exceed ~~40~~ 5 years, or both."

11
 12 **Section 2.** Section 45-7-209, MCA, is amended to read:

13 **"45-7-209. Impersonating Impersonation of a public servant.** (1) A person commits the offense of
 14 impersonating a public servant if ~~he~~ the person falsely pretends to hold a position in the public service with
 15 the purpose to induce another individual to submit to ~~such~~ the pretended official authority or otherwise to
 16 act in reliance upon that pretense to ~~his~~ the individual's prejudice.

17 (2) A person convicted of impersonating a public servant shall be fined not to exceed ~~\$500~~ \$5,000
 18 or be imprisoned in the ~~county jail~~ state prison for any term not to exceed ~~6 months~~ 5 years, or both."

19 -END-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BOB CLARK**, on February 6, 1995, at
8:00 AM

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Shiell Anderson, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Bill Carey (D)
Rep. Aubyn A. Curtiss (R)
Rep. Duane Grimes (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Daniel W. McGee (R)
Rep. Brad Molnar (R)
Rep. Debbie Shea (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)
Rep. Cliff Trexler (R)

Members Excused: NONE

Members Absent: NONE

Staff Present: John MacMaster, Legislative Council
Joanne Gunderson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 64, HB 345, HB 347, SB 143
Executive Action: HB 64 DO PASS AS AMENDED
HB 191 POSTPONE ACTION
HJR 14 DO PASS

CHAIRMAN BOB CLARK asked the sponsor if he would have any objection if the committee narrowed the distribution down to only the agencies who work traffic and DUIs.

REP. JOHNSON said his basic answer would be no. He said the original thought process was to put it in a state special fund earmarked for alcohol-related detection equipment. The drafting took into consideration the general trend away from specific earmarking as much as possible.

Closing by Sponsor:

REP. JOHNSON asked the committee to look at the fiscal note in closing. He referred to a January 29 issue of the *Independent Record* editorial by Dave Thomas about drunk driving as well as quoting from another article about a family affected by DUI in making his closing argument for HB 345.

HEARING ON HB 347

Opening Statement by Sponsor:

REP. DEB KOTTEL, HD 45, brought before the committee, HB 347 which seeks to address increasing threats against public servants. She gave examples of some of those threats and how they influence people who might otherwise run for public office. **EXHIBIT 4** was submitted as one example. She said there is a statute on the books which makes it a misdemeanor to threaten public officials, public servants or party officials; but this amendment makes it a felony to make those threats with the purpose to influence their discretion. It would become a felony to make threats against the property of a public servant with that same purpose. Current law does not provide for threats against property. It would also be a felony if the person or property of a public servant is actually injured.

Informational Testimony:

The sponsor presented the following informational testimony and urged the committee to study them thoroughly in considering this bill:

1. Letter from Nickolas Murnion, Garfield County Attorney, **EXHIBIT 5**

2. Letters from District Judge Jeffrey Langton and Undersheriff Thomas Killham, **EXHIBIT 6**

3. Letter from JoAnn Stanton, Clerk and Recorder, Garfield County, **EXHIBIT 7**

{Tape: 1; Side: B}

Proponents' Testimony:

John Connor, Department of Justice, spoke on behalf of the department as well as Nick Murnion who was unable to appear. He said this bill is intended to make more definitive and act-specific those types of crimes defined in 45-7-102, MCA, and to increase the penalty for impersonating a public servant. He gave historical background of this type of legislation. He addressed in more detail some of the previously submitted written testimony referred to above. He recounted receiving threats for appearing at a recent hearing before this committee. He believed there is a volatile situation and this bill would give increased jurisdiction over convicted offenders so that they can be monitored and their acts controlled and the threats eliminated.

Blake Wordal presented written testimony. He recounted specific threats made during his tenure in public office. He urged the committee to amend the bill to include protection of families of public officials. **EXHIBIT 8**

Vicki Knudsen, Attorney, Musselshell County, submitted her testimony of personal death threats and other threats which have affected her life and decisions to serve in public office in the future. She also said the county clerk in her county was threatened and followed so that she could not go to work. She told of other public officials and citizens in that county who have received threats and lawsuits. The people who are perpetrating the threats and actions have been charged with misdemeanors and posted bond. They have continued in their threatening acts and have gone so far as to declare war on the county. Some people would not testify in this hearing because of their fear. She gave extensive testimony about why the current law does not work to halt the threatening activities and how the affect is to tie up or close down the court system in the state.

Paul Smith, Musselshell County Sheriff, spoke from his experience with the groups who promote this threatening behavior. He gave a brief history of the Freeman Movement and read from some of their documents. He further described the volatile climate in his area which has caused him to make decisions about how to proceed and when to show restraint in dealing with the situation. He declared his support of HB 347 which would help end some of this action.

{Tape: 1; Side: B; Approx. Counter: 36.4}

W. James Kembel, City of Billings, went on record as supporting HB 347. He recalled threats received while he was serving in public office.

Laurie Ekanger, Governor's Office, said the Governor endorses this bill and urged support of it. She said that the Job Service

Offices are frequently requesting restraining orders because of threats to those employees.

Garth Jacobson, Secretary of State's Office, talked about his personal experience with threats and liens against his property because people disagreed with his personal philosophy on government. He referred to threatening documents which had been received within the past few weeks. He discussed the problems which are arising from people claiming to have official standing such as notaries.

Robert Throssell, Montana Association of Clerks and Recorders, appeared in support of the bill. He said that when the clerks in those offices refuse to file documents which are not allowed by law, they are intimidated and so ask support for this bill.

Christine Kaufmann, Director, Montana Human Rights Network, presented her testimony in support of HB 347. **EXHIBIT 9**

Dave Woodgerd, Chief Legal Counsel, Department of Revenue, submitted his testimony in support of HB 347. **EXHIBIT 10**

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. TASH asked **Sheriff Smith** if he had said that he had coordinated activities with agents from the Internal Revenue Service (IRS) to serve warrants.

Sheriff Smith corrected, "Notices."

REP. TASH asked if those were requested by the IRS, and if there had been any problem in working with them.

Sheriff Smith said it was a well-coordinated effort and they had had meetings with FBI and ATF as well as the IRS. When there is an incident they meet together to form a cooperative strategy plan.

REP. AUBYN CURTISS asked if the situation in Montana has anything to do with the introduction of HR 97, January 4, 1995. She said it is an act which provides for a rapid deployment strike force.

Sheriff Smith was not familiar with HR 97.

REP. LINDA MC CULLOCH asked if other states currently have this law or have need of this type of law.

REP. KOTTEL said that she knew some other states have gone farther than this by having "slap" law suits, teaching litigation law suits because of the problems.

REP. LIZ SMITH asked how would this law be enforced.

Sheriff Smith said they were referring to the re-classification of the crime from misdemeanor to felony. From a law enforcement administrator's standpoint, it is a matter of liability and the resources and rules which can be applied in serving warrants pertaining to misdemeanors versus felony classification crimes. He described some of those differences.

REP. SMITH asked if there would be a potential to have the provision to bring in the federal deployment teams to assist in enforcing these as felonies.

Sheriff Smith said that would be correct. He discussed the costs to the county if this help were needed to initiate a large operation.

REP. SMITH wondered if this bill would include threats regarding campaign practices as well.

REP. KOTTEL said that it would.

REP. LOREN SOFT referred to previous testimony about amendments being offered to the committee from Ms. Knudsen and asked her about her reference to mandatory sanctions.

Ms. Knudsen thought those references were to litigation filed for the purpose of trying to hold up situations. She was referring to situations where "they" pull everyone into lawsuits which take a great deal of time even though "they" know "they" are not going to win, yet this ties up the court system. She felt "they" should have to pay for this and felt this would slow "them" down.

REP. BILL CAREY asked the sponsor to share her view on including coverage by the bill for the public servant's family.

REP. KOTTEL said she was open to that.

REP. MOLNAR confirmed with the sponsor that this is not new language but just adding to existing law; and then asked how increasing the penalty would effect a decrease in these activities.

{Tape: 2; Side: A}

REP. KOTTEL said that the amendment on lines 22 and 23 made a significant modification by speaking to the affect on a public servant's willingness to seek public office and that this bill also includes threats to a person's property resulting in a felony charge. The old statute allowed a wide range of charges and the usual charge was a misdemeanor which does not deter the activity.

REP. MOLNAR had a problem with the provision for incarceration being limited to the state prison because of the overcrowded

conditions. He said that would have the affect of turning the offenders loose.

REP. KOTTEL said they are not serving time now, they are posting bond and defaulting on that bond and walking away. By moving it up to a felony charge, the intent is to make them accountable. She checked with Mr. Connor to see if they could serve the time in the county jail. He said they could not. Felony by definition requires serving one year of time. The exception would be if they have a longer term for which they have been given suspended time.

REP. HURDLE asked if the wording which sentences them to prison meant they would be sentenced to the Department of Corrections and Human Services (DCHS) where they would be placed in a release program to receive counseling.

Mr. Connor said the sentencing statute is 46-18-201, MCA, which was amended last session to allow an option to the court to sentence someone either to the state prison or to DCHS. If the latter occurs, the department has more latitude with respect to where the person will be placed.

REP. TASH asked why it was necessary to compromise in setting the fine at \$5,000.

REP. KOTTEL said she agreed and would accept an amendment to increase it.

REP. TASH asked what she would deem acceptable.

REP. KOTTEL said they could go back to \$50,000 or double that.

{Tape: 2; Side: A; Approx. Counter: 9.0}

Closing by Sponsor:

REP. KOTTEL said this piece of legislation is not about Freemen but about anyone who thinks they can use the tyranny of violence to shut down the government. Because she believes in Second Amendment rights, she said she demands that people be accountable for their actions. She did not want to slight the right for people to bear arms because others are afraid of what they will do with them. Though she respects that right, she believes they must be responsible with that right. She felt it was up to the committee to send a message that violence will not be tolerated in a democratic society where the free expression of ideas is essential.

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL

DATE 2/6/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority	✓ late	✓	
Rep. Chris Ahner	✓ late	✓	
Rep. Ellen Bergman	✓		
Rep. Bill Boharski	✓		
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes	✓		
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar	✓ late	✓	
Rep. Debbie Shea	✓		
Rep. Liz Smith	✓ late	✓	
Rep. Loren Soft	✓		
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		



North American Militia

210 South Third Street, P.O. Box 741
Boonville, Indiana 47601
812-897-4346

EXHIBIT 4

DATE 2/3/95

HB 347

COAST TO COAST
BORDER TO BORDER
AMERICA'S LARGEST

December 30, 1994

[REDACTED] Tax Counsel
State Dept. of Revenue
Office of Legal Affairs
P.O. Box 202701
Helena, Montana 59620-2701

RECEIVED

JAN 03 1995

DIRECTOR'S OFFICE
DEPT. OF REVENUE

Re: Press Release

Dear **[REDACTED]**

The purpose of this letter is to introduce you to the North American Volunteer Militia. We are the largest assembled militia that the North American continent has seen since it's beginning. The purpose of the Militia is to assist in civil defense situations and to defend our inhabitants against an out of control government and their hoards of officers that have been sent forth to harass our people.

The reason this letter is being sent to you at this time is to make you aware of what to expect if you continue your aggressive activities against the people of Montana.

Each of you have taken an Oath to uphold the Constitution for the United States. The Oath is your contract with the people. When you violate your Oath of office you become renegade to the Constitution and guilty of treason. I am sure you know what the penalty is for treason.

There is a Judge by the Name of Jeff Langton, of Hamilton, Montana, who hears cases against people while the same people have federal district court action pending at the same time with the judge as defendant. This is clearly a conflict of interest and a violation of the law. That same judge when ask by one of our members about his Oath of Office, stated, and I quote, "THE OATH OF OFFICE IS NOTHING MORE THAN A FORMALITY." This man has no business being a judge. He is a disgrace to the profession and a slap in the face of all those who have given their life and fortunes defending freedom in America.

You have state agents who are threatening to take wildlife from an individual. The individual is not a corporation and has certain unalienable rights. The State of Montana does not own the wildlife. The regulations do not pertain to the human being inhabitants of Montana. BETTER THINK THIS ONE OVER REAL GOOD BEFORE YOU GO AFTER THESE ANIMALS WITHOUT PRODUCING PROOF THAT YOU OWN THEM.

We would prefer that you take a good hard look at what you and your agencies are doing and amend your ways immediately. We are prepared, however, to defend, with our life, our Rights to Life, Liberty, and the Pursuit of Happiness. We number in the thousands in your area and everywhere else. How many of your agents will be sent home in body bags before you hear the pleas of the people?

Proceed at your own peril!

Yours very truly,
The North American Volunteer Militia

F. Joe Holland
F. Joe Holland, National Director

cc: Calvin Greenup
Montana State Militia Cordinator

LIVE FREE OR DIE!

EXHIBIT 5
DATE 2/6/95
HB 347

DATE: February 3, 1995

TO: Montana House of Representatives- Judiciary Committee

FROM: Nickolas C. Murnion, Garfield County Attorney, Box 375, Jordan,
Montana; Telephone: 406-557-2480 -- Fax: 406-557-2595

As Garfield County Attorney I offer this written testimony in full support of House Bill 347 . I believe this bill fills a large gap which exists in the Montana criminal code in dealing with a well organized movement that is determined to clog and abuse the system in order to achieve political and personal goals. One of these groups is the so-called "Freemen" group currently involving 9 residents of Garfield County and 6 residents of 4 adjoining counties. The "Freemen" believe that the bible and constitution give them the right to set up their own court system and government. The people involved in these movements have been instructed on how to get even with the government. The advent of technology is bringing this message to the rural areas by means of fax machines, computers, laser printers, E-mail and video tape machines. This allows individuals in remote places to share various forms and information on how to file the forms via networks of like-minded individuals. The computer generated forms produced from laser printers are then used to clog the system. This instruction includes how to file pro se lawsuits, liens and other types of documents. Their goals are two-fold:

1. They can get even with the system without incurring any expense by clogging the system with paperwork and causing that certain government official or financial officer a lot of unnecessary work; and
2. They believe that one of the hundreds of documents demanding millions of dollars that are filed might slip through the cracks and make them a millionaire.

Within the past two years I have received numerous UCC filings against me demanding anywhere from \$1 million to \$500 million in minted silver. I have seen a bounty of \$1 million placed upon anyone who would arrest and convict me in a common law court. I have had allegations of committing numerous crimes including the crime of treason for which the penalty is death. I have received thousands of pages of documents which contain many thinly veiled threats against me and others.

House Bill 347 will change §45-7-102 - Threats and other improper influence in official and political matters in three important ways:

1. It will make it a felony to make threats against a public servant with the purpose to influence his discretion. Under current law, these types of threats are misdemeanors since they are not directly connected with a judicial or administrative proceeding.
2. It will make it a felony to make a threat against the property of a public servant with the purpose to influence his discretion. Current law does not provide for threats against property.

3. It will make it a felony if the person or property of a public servant is actually injured because of the public servant's lawful discharge of his duties. Currently only threats against the person are a criminal offense.

The only change I would suggest to HB 347 would be to leave the penalty the same - a \$50,000 fine or 10 years in state prison. I would trust the District Judges to decide the appropriate punishment.

The criminal statute on impersonating a public servant currently makes it a misdemeanor to commit this offense. I have successfully prosecuted seven individuals for violating this statute in justice court. Two of the seven have appealed their prior jury conviction to District Court. In examining the crime of Impersonating a Public Servant, I found it hard to believe that it was only considered a misdemeanor. Currently a person could be caught impersonating a District Judge, an Attorney General, a Supreme Court Justice, even a Governor of Montana and apparently only be guilty of a misdemeanor under our laws. This is simply absurd.

In conclusion it is my belief that HB 347 will go a long ways towards giving law enforcement a tool to adequately deal with the "paper terrorism" to which we are currently being subjected. By "paper terrorism" I am referring to the thousands of documents that have been filed against County Attorneys, Sheriffs, District Judges, Justices of the Peace, the Attorney General, Governor, Justices of the Supreme Court, banking institutions, and numerous other individuals with the sole purpose of terrorizing those individuals. I have also personally seen the effects that these groups have had on our elected county officials in Garfield County. They have dreaded going to work, lost weight from the stress, their husbands have started packing guns and have considered resigning from office. The threats have involved my family and those of the sheriff. As public officials our oath of office does require us to take a certain amount of harassment from the public since we are public servants. It is clear that the threats and intimidation we have been subjected to by the Freemen is above and beyond anything that any public official should have to take. I urge quick passage of this Bill so that this type of terrorism can be effectively dealt with.

Nickolas C. Murnion
Garfield County Attorney

EXHIBIT 6DATE 2/6/95HB 347

TWENTY-FIRST JUDICIAL DISTRICT
STATE OF MONTANA
RAVALLI COUNTY

JEFFREY H. LANGTON
DISTRICT JUDGE

RAVALLI COUNTY COURTHOUSE
COURTHOUSE BOX 5012
HAMILTON, MONTANA 59840
(406) 363-3412

February 3, 1995



Chairman, Judiciary Committee
Montana House of Representatives

RE: House Bill 347

Dear Mr. Chairman and Members of the Committee:

I have just been made aware of House Bill 347 revising the law relating to the crime of threatening public officials.

As a public official who has been recently threatened by an out-of-state extremist organization, I wish to express my qualified endorsement of this legislation which criminalizes threats to an official's property. I would also urge the committee to consider an amendment criminalizing threats to an official's family members or property of family members for the purpose of influencing official actions, and also to upgrade the penalties to the existing felony penalties and not lower the existing felony punishment.

We recently had a case here in which certain individuals have attempted to file multi-million dollar liens against the Sheriff and his spouse because of their anger over the Sheriff's actions in not arresting federal law enforcement agents serving a federal search warrant upon them. If we are to administer the law fairly and without fear of reprisal we must have the backing of the Legislature to be able to appropriately check and sanction offenders who wish to pursue their radical agendas by means of force, intimidation, threats, or violence, instead of accepted legal and political avenues.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey H. Langton", is written over the typed name and title.
JEFFREY H. LANGTON
District Judge

JHL/dkg

FERGUS COUNTY SHERIFF'S DEPARTMENT

P.O. BOX 180

PHONE (406) 538-3415

LEWISTOWN MT 59457

FAX (406) 538-3860

February 2, 1995

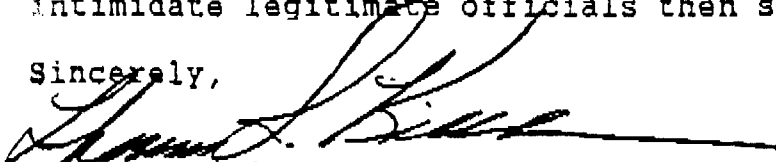
House of Representatives
Judiciary Committee
Helena Montana

Eastern Montana public officials both elected and appointed have endured over the past four years an onslaught of meaningless and frivolous filings within the legal systems of the state. These filings have attacked the public officials, their private property and their families. These documents have been filed by a group of citizens who often refer to themselves as "freemen" and who have decided that more often than not the rules apply to everyone but themselves.

To profile these individuals, find someone that is deliberately not paying his bills. Someone who blames government in general for his failed business, farm, or ranch. Someone who recognizes only the laws that he feels benefit him and to hell with all the rest. Someone who has become so radical in their beliefs that they will publicly claim their individual sovereignty from the United States and Montana. Someone who has become so paranoid of the legal actions against him to collect his debts that he will take up arms and threaten Government Officials.

Legally elected and appointed government officials need protection from these people. HB 347 is an answer to this and your support of this legislation would be greatly appreciated. When citizens feel that they can take the law in their own hands, issue "warrants" from their own "justice courts", appoint their own "marshals" and intimidate legitimate officials then strong actions must be taken.

Sincerely,



Thomas L. Killham, Undersheriff
Fergus County Sheriff's Dept
Lewistown Montana

Office of
Garfield County Clerk and Recorder

Box 7

Garfield County

Jordan, Montana 59337

Phone 557-2760

EXHIBIT 7
DATE 2/6/95
HB 347

DATE: February 5, 1995

TO: House Judiciary Committee

FROM: Jo Ann Stanton; Garfield County Clerk & Recorder

RE: House Bill 347

Ladies & Gentlemen:

Please accept my written testimony in support of House Bill 347. I am the Clerk & Recorder in and for Garfield County, a position I have held for the past 8 years.

Approximately 18 months ago, I was confronted by some local people to file and/or record documents in my office that were not "legal documents". These people are now referred to as the "freemen". I couldn't file and/or record some of their documents because of current statutes. Upon my refusal to do so, they commenced sending me threats in the mail. They threatened to attach my body (kidnap), attach my real and personal property and even my husband's personal property. This not only upset me, but my husband, also. My husband is a self-employed truckdriver. His truck is currently equipped with a hunting rifle.

One year ago one of the "freemen", my husband's cousin, came into my office. He invited me to a meeting at his ranch home, which is 30 miles out in the country. At this meeting I would learn about common-law and how to protect myself. Then he made a very disturbing comment, he "guaranteed my personal safety while I was at his house". Prior to that statement, I would not have had any qualms about entering his home.

About 9 months ago I was commanded to appear in their "court". Failure to appear would be contempt of court and I would be guilty of official misconduct, which is punishable by removal from office and possibly even death.

Receiving these kinds of threats has been very stressful to me and my co-workers. Prior to warrants of arrest being issued for several of those involved, the tension in the Courthouse was almost unbearable at times. When the front door opened, we held our breath waiting to see who it was and what they wanted. If we heard a vehicle pull up we ran to the nearest window. In my office we had a plan if any of these people came in with guns. As the elected official I would wait on them. My 2 deputies were instructed to go into the cement vault, close the door and call the Sheriff on the phone in the vault.

Page 2
HB 347

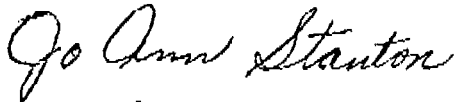
We also had an agreement with the other offices that no one was to be left alone with the "freemen", as there was very seldom less than three of them in a group.

The terror these threats has caused is tremendous, not just to the public servants, but the community as a whole. The majority of the people in our community do not feel that public servants should have to put up with this kind of harrassment.

The laws need to be revised and more specific. I also feel the punishment for these crimes need to be stiffer.

I thank you for this opportunity to convey my opinion and my feelings.

Sincerely,



Jo Ann Stanton
Clerk & Recorder
Garfield County, MT

jas

ps: The havoc the "freemen" have raised in our community would not have escalated if the laws had been different.



LEWIS AND CLARK COUNTY

EXHIBIT 1
DATE 2/6/95
HB 347

City County Building
P.O. Box 1724
316 North Park
Helena, Montana 59624
Telephone 406/447-8304

Board of County Commissioners

House Bill 347

For the record, I am Blake Wordal, a Lewis and Clark County Commissioner and representing Lewis and Clark County here today.

First, I need to explain that I am not comfortable appearing here before you today. I promised some of my constituents that I would testify in favor of this bill and explain to you some of the experiences I have had as an elected official. I must begin by explaining that I am neither afraid for my own safety nor intimidated by those who have attempted to influence my decisions.

For the past eleven years, I have served as an elected public official, and the decisions which I make will not be affected by passage of this bill. However, I do feel that it is important for you to understand the increasing pressures and threats which public officials are now facing.

Specifically, there have been three experiences where I felt that my personal safety, and more importantly, the safety of my family, has been threatened. The first was when a group known as the PACE Amendment Advocates made known their plans to move their "world headquarters" to Helena. The PACE Amendment Advocates are a far right organization dedicated to passage of a Constitutional Amendment which would declare the United States as a homeland for northern European white citizens. They champion shipping those citizens who are not of northern European decent back to where they came from. As a member of the City Commission, I believed that it was important for the city to let these extremists know that they were not welcome here. The City Commission, at my urging, passed a motion to inform the PACE Amendment Advocates that they were not welcome in Helena, Montana.

As a result, this organization sponsored four full page advertisements in our local paper taking exception to our decision. I received hundreds of letter and telephone calls from all over the country which were threatening to say the least.

The second occasion involved a dispute among neighboring landowners over the status of a road which bordered their properties. One of the landowners called me to explain how my future and the future of my family and the other County Commission members would be affected by our decision on the road.

Another warning about my future occurred recently when the County Commission was considering emergency zoning requirements to deal with the rapid growth which Lewis and Clark County has experienced over the past five years. I was told that we should install bullet proof glass in our conference room.

None of these risks would affect my decisions on matters of public policy. However, I do not have children to worry over. If I were concerned about the safety of my children, I would not hold public office today. The families of local and state government officials should not be threatened by those who disagree with our public policy decisions.

Actions by those who seek to intimidate public officials are an affront to our Constitution and to the very beliefs which founded this great nation. Freedom of speech is vital to our continued growth and success. Threats to our families is beyond the bounds of free speech; they are a challenge to our very existence as a democracy.

House Bill 347 is important to remind everyone that our nation is dependent upon the expression of free ideas and will not be governed by threats or intimidation. I urge you to amend this bill to include the very real threats and harm which are directed at the families of public officials. I can take care of myself, I am only fearful for the safety of my family and the children of public officials like myself.

Thank you.

TESTIMONY IN FAVOR OF HB 347

OFFERED BY: CHRISTINE KAUFMANN, MONTANA HUMAN RIGHTS NETWORK

Although I have been before this committee several times in the past month and talked about the Network, it seems that some committee members are confused about who we are. I'd like to take a moment to clarify.

The Montana Human Rights Network is a private non-profit corporation, consisting of a statewide office and 12 local human rights groups. The staff answers to a board of directors from across the state and about 3,500 Montanans who support our mission with their dollars and their activism. We are not a part of the Human Rights Commission, the office of state government charged with enforcement of anti-discrimination laws.

Our mission is to help communities counter bigotry, hatred, and intolerance across Montana, no matter who the targets are. We do this by helping local activists speak out against the intolerance and by celebrating the diversity among us. You may wonder how it is that the Network is promoting a law and order type bill such as HB 347. There are three main reasons.

1. Public officials have become a primary target of hatred and intolerance.
2. White supremacists and other hate activists are effectively using more mainstream anti-government sentiment to create an atmosphere of intolerance in which they can further their agenda.
3. Democratic processes are being threatened by those who do not believe in tolerating different opinions.

The traditional targets of hatred and intolerance for hundreds of years have been minority groups--Indians, Jews, Blacks, Latinos, Homosexuals. While those groups remain targets, there are some new ones in recent years--especially public officials. As you have heard, law enforcement officers, judges, county commissioners, city council members, planning board members, school board members, even the governor, have been harassed and threatened, in some cases with violence and death.

When the Network started about 5 years ago, it was primarily concerned with fringe white supremacist groups such as the Aryan Nation, the KKK, and the Posse Comitatus. While there are few actual members in these hate groups, they are increasingly attaching themselves to groups often referred to as "patriots" or "constitutionalists." In recent years these groups have been emphasizing issues such as tax protest, gun control, abortion, educational reform, private property rights, and state's rights.

Please note that I did not say that everyone, or even most people, with these concerns are members of hate groups. I do not believe that. Most Montanans are concerned about these issues. They are legitimate concerns and should be part of the public debate.

Some patriots, however, do espouse white supremacist and anti-semitic beliefs. Red Beckman, a well-known Montana tax-protester writes that the Holocaust is God's just punishment of the Anti-Christ Church. The name "Freeman" was given to the Constitutionalists in Garfield County by the press. They referred to themselves as "Free White Men." A document filed by one of those "free white men," espouses a racist theology known as Identity, which holds that white men are the true chosen race, that Jews are the offspring of Satan, and that people of color are sub-human. He writes that "14th amendment citizens" (people of color) do not have the same rights as "organic citizens," (white men). He equates state legislators with the Old Testament "prophets of Baal," suggests that to follow their laws is to "worship false gods."

Entering the public debate is one thing, but refusing to play by the rules of democratic process is another. One of the most important tenets of democracy is tolerance of differing opinions. Most Americans believe that each of us has the right to express our own opinions free from intimidation, to participate in democracy, to criticize our leaders in a respectful, constructive manner. Most Americans believe that the free exchange of ideas is essential to democratic process, that diversity is strength, and that change occurs in a legal manner. The incidents you have heard about do not follow those rules. Some people do not want to allow the expression of other points of view, they want to impose their beliefs on others, disrupt the process, and subvert the rules. They rely on threats, personal attacks, and eventually violence.

The Network began working on this piece of legislation when we heard over and over the stories of intimidation and harassment, the stories of those who were leaving public service because they feared for their lives and those of their families, and especially when county attorneys told us that they just didn't have the legal tools to deal with this kind of intimidation. As we circulated this bill recently, we've heard from a number of people that we didn't go far enough. We support the suggested amendments to strengthen this bill. We urge you to protect public servants by approving HB 347.

TESTIMONY IN SUPPORT OF HOUSE BILL 347

Montana Department of Revenue
February 6, 1995

I am here today on behalf of the Montana Department of Revenue and it's employees. Attached is a copy of a letter that an attorney for the Department recently received. Near the bottom of the letter the author has written what we consider to be a clear threat. At the time, the attorney was in the process of filing suit against a member of this group, Calvin Greenup, for failure to file a tax return. Since this letter was written, a District Court Judge has issued a warrant for Mr. Greenup's arrest for failure to file a Montana tax return.

The attorney recently received a telephone call from a person who appeared to be a member of the militia who told the attorney that if he persisted in prosecuting Mr. Greenup "somebody was going to get hurt." The person refused to identify himself. In addition, the Department's attorney received a telephone call at his personal residence from a person who simply asked if he was the attorney prosecuting Calvin Greenup and then hung up.

As a result, the attorney, his wife and his children are concerned about their personal safety. The attorney has done nothing more than attempt to enforce the laws of Montana as duly enacted by the Montana Legislature. Montana public employees should not have their personal security threatened because they are performing their job.

There are other examples of Department of Revenue employees being harassed because they are doing their job. I will not recite

these examples to you. Clearly this bill will not solve all the problems of public employees harassment, but it is a step in the right direction and the Department urges the committee to pass this legislation.

Dave Woodgerd
Chief Legal Counsel
Montana Dept. of Revenue

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

JUDICIARY

COMMITTEE

DATE 2/6/95

BILL NO. HB 347

SPONSOR(S) Rep. Kattell

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Blake Wordell	Lewis & Clark Co.	✓	
Vicki Knudsen	Musselshell Co.	✓	
John Conna	Dept of Justice MT County Atty Assn	✓	
Laurie Ekanger	Governor's Office	✓	
Dave Woodgerd	Dept. of Revenue	✓	
Paul Smith	Musselshell Co	✓	
Christine Kaufmann	MT Human Rights Netwk	✓	
W James Kember	City of Billings	✓	
Ernest Jackson	Sec of State's Office	✓	
ROBERT THROSSELL	MT Assoc Clerk & Rec	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

wp:visbcom.man

CS-14

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MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on February 8, 1995, at
7:00 AM.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Shiell Anderson, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Bill Carey (D)
Rep. Aubyn A. Curtiss (R)
Rep. Duane Grimes (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Daniel W. McGee (R)
Rep. Brad Molnar (R)
Rep. Debbie Shea (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)
Rep. Cliff Trexler (R)

Members Excused: NONE

Members Absent: NONE

Staff Present: John MacMaster, Legislative Council
Joanne Gunderson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	HB 315, HB 322, HB 355, HB 402
Executive Action:	HB 55, HB 271, HB 402 POSTPONE ACTION
	HB 191, HB 290 HB 302 TABLE
	HB 74 DO PASS AS AMENDED
	HB 217 DO PASS AS AMENDED
	HB 253 DO PASS AS AMENDED
	HB 347 DO PASS AS AMENDED

already can't take care of the roads they have. He could cover other issues if the committee desired.

Motion/Vote: REP. BOHARSKI MOVED HB 290 BE TABLED. The motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 347

Motion: REP. KOTTEL MOVED HB 347 DO PASS.

Discussion: REP. CURTISS said they were told over and over that they shouldn't be making laws which deal with specific instances and she thought that was what this one was for. The testimony related to what was happening in one county. She felt it was up to law enforcement to discharge their duties and obligations and responsibilities. She planned to oppose the bill. Though they should not tolerate threats, she was not convinced there was enough evidence that was happening over an extensive area.

REP. MOLNAR believed this provision existed in law and felt for shallow reasoning it lowered the threshold of pain that they could inflict as opposed to raising it.

REP. ANDERSON said the penalties being lowered pertained to judicial or administrative proceedings and this bill only made those commensurate with penalties for threatening public officials. The bill would help people in rural areas because it would make the crimes a felony the first time. For all practical purposes, it would be permissive to levy a fine or imprisonment so that they could still treat it similar to a misdemeanor. It wouldn't set up a new category of persons, but simply would put more teeth in the law that they currently have.

REP. CAREY felt they needed to stand up to the people who are issuing threats and to support the people who are dealing with the groups who are causing the problems. He wanted to add families to the wording along with public servant's property.

CHAIRMAN CLARK said they would be expanding the title of the bill where it could prove to be a problem later on and kill it.

Motion: REP. TASH MOVED TO AMEND BY INCREASING THE FINE.

Discussion: REP. CAREY suggested also increasing the time to ten years.

Motion/Vote: REP. TASH MOVED A SUBSTITUTE AMENDMENT TO RETURN THE BILL TO THE ORIGINAL LANGUAGE TO RAISE THE FINE TO NOT TO EXCEED \$50,000 AND A TERM IN THE STATE PRISON NOT TO EXCEED TEN YEARS. The motion carried unanimously by voice vote.

Motion: REP. MC GEE MOVED TO AMEND BY INCLUDING FAMILIES.

Discussion: REP. MC GEE discussed his intent and said he would be in favor of modifying the language to immediate families.

Motion: REP. MC GEE MOVED A SUBSTITUTE AMENDMENT TO SPECIFICALLY LIST THOSE FAMILY MEMBERS TO BE INCLUDED.

Discussion: Mr. MacMaster read the amended language to the committee and which also considered modified language per REP. KOTTEL'S suggestion.

Vote: The motion carried unanimously by voice vote.

Motion: REP. BOHARSKI MOVED HB 347 DO PASS AS AMENDED.

Discussion: REP. BOHARSKI asked for clarification as to the types of property which would be included and REP. KOTTEL provided that clarification.

Vote: The motion carried 17-1, REP. MOLNAR voted no.

Motion: REP. WYATT MOVED TO ADJOURN.

{Comments: This set of minutes is complete on three 60-minute tapes.}

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL

DATE 2/8/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski	✓		
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes	✓		
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar	✓ late*		
Rep. Debbie Shea	✓ late*		
Rep. Liz Smith	✓ late*		
Rep. Loren Soft	✓		
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		

* 7¹⁵

HOUSE OF REPRESENTATIVES

ABSENTEE VOTE

I give Rep. McCulloch my proxy on all
bills and amendments Date _____

Mr. Chairman/Mr. Speaker:

I, the undersigned member, hereby vote absentee on:

_____ Bill No. 347

Representative Daphne Shea voting (aye or no)

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BRUCE D. CRIPPEN**, on March 8, 1995,
at 9:00 AM

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Lorents Grosfield (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Linda J. Nelson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Council
Judy Keintz, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 157, HB 214, HB 347, HB 253
Executive Action: HRJ 14, HB 232, HB 253, HB 347

HEARING ON HB 214 & HB 157

Opening Statement by Sponsor:

REPRESENTATIVE DEBORAH KOTTEL, House District 45, Great Falls, presented HB 214. This legislative session has had a lot of focus on the issue of crime. The three areas of focus are: victim protection, rehabilitation/prevention and deterrents/punishment. Deterrents and punishment is not just keeping people in prison. Deterrents deal with what to do with the individual once they are out of prison and on the street. How will the people of Montana be protected? HB 214 deals with

EXECUTIVE ACTION ON HJR 14

Discussion: CHAIRMAN CRIPPEN stated he talked to REPRESENTATIVE GREEN about this bill and he indicated he did not want to have any amendments on it.

HEARING ON HB 347Opening Statement by Sponsor:

REPRESENTATIVE DEBORAH KOTTEL, House District 45, Great Falls, presented HB 347. This bill will make it a felony to make threats against a public servant with the purpose to influence their discretion. Currently these types of threats are misdemeanors since they are directly connected with the judicial or administrative proceeding. This bill makes it a felony to make a threat against the property of a public servant with the purpose to influence their discretion. Section 45-7-102, MCA, does not provide for threats against property. It will make it a felony to make a threat against a family member of a public servant for the purpose of influencing their discretion. It will make it a felony if the person or property of a public servant is actually injured because of the public servant's lawful discharge of their duties. Currently only threats are covered at the misdemeanor level. This bill gives local government officials the protection that they need and the tools to stop the escalation of violence. Constitutionlists and tax protestors in Garfield, Petroleum and Fergus Counties calling themselves Freemen threatened to hang the Garfield County Sheriff Charles Phipps and offered bounties on several governmental officials. Lewis and Clark County Commissioner Blake Wordahl received a call threatening to kill his dogs and to injure his property. A school board member in Livingston had a lug nut on his car loosened because of a position he had taken on a school board meeting. Ravalli County Commissioners have received anonymous calls warning them not to sit in front of the windows of their office. Judge Jeffrey Langton received a threatening letter from a militia group, etc. One of the things which makes Montana great is a citizen's legislature. When she decided to run the decision meant the loss of a private life and an unbelievable loss of time. It meant taking tough positions. It did not mean that people would threaten the life of her child or her own life.

Proponents' Testimony:

REPRESENTATIVE CLIFF TREXLER, House District 59, Corvallis, stated that some time ago their local judge, county attorney, and assistant county attorney were threatened. A young man was arrested for driving a stolen pick up. After he posted bond and was released, all of the public officials involved were served with papers saying the Militia of Common Law had given them 10 days to respond. If they did not respond, they would be arrested and tried by the court of the militia.

Ken Toole, President of Montana Human Rights Network, commented on a pattern they see emerging in Montana. They have been monitoring the Freeman movement and the militia groups for four or five years. They are seeing a pattern of escalation within the groups. In Musselshell County among the items confiscated in the arrests, in addition to \$80,000 in cash and weapons, were plastic hand ties to be used to take people into custody. It is important that prosecutors and local law enforcement officials have the appropriate tools to deal with this type of situation. They feel that people are being discouraged from serving in public office because of all the threats. These organizations will seat their own courts. They then proceed to issue summons, arrest warrants, etc.

John Connor, Montana County Attorneys Association, stated Attorney General Joe Mazurek wanted to be here today but was unable to do so. This bill is an effort to make more definitive the provisions of 45-7-102, MCA, as well as increasing the punishment for impersonating public servants. The legislature is asked to broaden the offense consistent with the trend to include offenses for threats against public official's property and families. The nature of the threat and the potential for violence which comes out of that is what is important. Public officials should be free to speak out and to vote their conscience without fear of retaliation. The threats become more onerous when they involve clerk and recorders, clerks of court, treasurers, etc., who are not used to dealing with this sort of things. The part of the bill dealing with making it a crime to impersonate a public official stems from the situation where people have been setting up their own court system. They issue grand jury subpoenas and indictments. People are truly frightened.

Judge Marty Bethel, City Judge Ravalli County, stated that they have become quite shaken by the Militia of Montana activity. Four judges have been inundated with threats of violence against themselves, their families, and the peace officers who work in their courts. This court convened and ruled that they have jurisdiction over her courts. They elected three justices and appointed a marshal with arrest authority. All the judges were served with documents ordering them to dismiss within 10 days for lack of jurisdiction. They demanded their addresses. They deal with threats on a regular basis but those are typically defused with discussion. These people openly state they will die as free men if they do not get their way. Justice Sable has been told she will be shot in the head. Deputy County Attorney Reardon has been told he is going to be shot in the back.

Blake Wordal, Lewis and Clark County Commissioner, stated that the bill was improved in the House with reference to families. Threats to him will not affect his decisions on matters of importance but he listens a little harder when someone is threatening his family. There were three times when he was confronted with complaints over and above the regular complaints.

The first was in 1987 when a group called the Pace Amendment Advocates announced that they would be moving their headquarters to Helena, Montana. The Pace Amendment Advocates are a group who advocate a new amendment called the Pace Amendment to the United States Constitution which would set aside the Pacific Northwest as a homeland for white christian men and their families and would remove everyone else from the area. They were told they were not welcome in Helena. As a result, they bought full page ads challenging them in how they represented the community. He received phone calls and letters threatening his family, dog, property, and himself. The second complaint was over a road. One person who lived on the road, called the commission office and said he was coming up with his rifle to blow them away. The third time was when the commissioners were considering zoning proposals for the county. They were told to invest in bullet proof glass.

Brad Martin, Director of the Montana Democratic Party, spoke in support of HB 347. He sees mounting evidence of a growing freeman and militia movement in Montana. At what point, when this threat moves from a threat to an action, will the committee regret not acting on this bill. This bill is extremely important to public servants. The threat is real. The remedy is appropriate.

Sue Haverfield, Flathead County Clerk and Recorder, stated they support this bill. They are in the courthouse trying to do their statutorily assigned duties and people are challenging them with threats. The courthouse was built in 1902 which sits in the middle of the road and doesn't have any offices in it anymore. They have had the police department train them in the use of pepper spray.

Jim Campbell, City of Billings, stated their support of the bill for the protection of their employees.

Jim Smith, Montana Sheriffs and Peace Officers Association, stated their support of HB 347.

Edmund Caplis, Executive Director of the Montana Senior Citizens Association, spoke in support of this bill.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SENATOR HOLDEN asked Mr. Connor if public officials included judges?

Mr. Connor stated that was correct.

SENATOR HOLDEN asked if the governor has been contacted about the problem in Ravalli County and if the Montana National Guard could be used if there is escalation.

Mr. Connor stated he is working with the county attorney over there and is not comfortable commenting because he is not sure what may result in terms of action in Ravalli County.

SENATOR HOLDEN asked if the Montana National Guard is used to put down those types of unrestful situations.

Mr. Connor stated that he believed the governor has a statutory scheme he must follow in terms of when he is able to activate the guard.

SENATOR BAER asked if **Mr. Connor** knew of any incident where someone has been actually physically harmed under these circumstances to date?

Mr. Connor answered he couldn't remember a specific assault situation. He did not want to say that they haven't occurred. He is personally not familiar with them. If there are assaults which occur, there are statutes which can be used to charge for a particular type of violent action.

SENATOR BAER asked if the impact of this bill would make the penalty more severe if the victim were a public official rather than a private person.

Mr. Connor stated that they tried to compare this bill with the intimidation statute which is Section 45-5-203, MCA, which can be used to address people who are not public servants if threats are made against them. They thought this bill was a good idea because it is more act specific and covers situations where there are threats against property as well as the person and that is not covered by intimidation. It is unique to public servants because in the performance of their duties they are more apt to have threats against property such as inappropriate liens put on their property rather than that kind of thing being done to the private citizen. If there are threats against a private person to get that person to perform or omit the performance of an act and they are threatened with physical harm or with the commission of any felony offense, then they can be charged under intimidation.

SENATOR BAER stated the fine is being raised from \$5,000 to \$50,000. Would that be the same application to a private person who was a victim of this type of violent behavior?

Mr. Connor stated it is the same penalty as intimidation.

SENATOR BAER commented that he did not wish to do something that would inflame the situation which has already progressed to a certain point. He has been subject to death threats in the

Senate. He does not want to hysterically inflame a situation. He asked if the bill was really necessary.

Mr. Connor stated that generally speaking from the standpoint of prosecutors and law enforcement, he agrees completely. We have to do our very best not to escalate the situation. This bill is a tool which must be used with restraint and responsibility as prosecutors and law enforcement officers.

SENATOR BAER stated there is a lot of extremism out there and he does not want the legislature to respond with reciprocal extremism.

SENATOR DOHERTY asked **Judge Bethel** and **Ms. Haverfield** if they believed this response is necessary.

Ms. Haverfield stated she hoped it was not necessary but something is needed. In their case they were dealing with the spouse of an employee who was a potential loose canon and they are sitting there in a wide open space with no protection.

Judge Bethel stated this bill is not an overreaction. The last filings stated if they will not respond, they will die.

SENATOR GROSFIELD stated that on page 2, line 11, it looked like the House lowered the fine to \$5,000 and then raised it back to \$50,000.

REPRESENTATIVE KOTTEL commented the fine has always been \$50,000. When they submitted the bill, since they increased the penalty to a felony from a misdemeanor, they thought as a compromise they would lower the fine to \$5,000. The bill was submitted with the fine being lowered as \$5,000. The House felt strongly that it should remain at \$50,000 and it is through the House's amendment that it was brought back to the original level of \$50,000.

Closing by Sponsor:

REPRESENTATIVE KOTTEL stated that when she was in the room earlier on HB 157 and HB 214, many people walked through these passages but almost no one looked up and looked around. Today during this bill she noticed over and over again many of the committee members looking to see who was walking by. This bill brought the heightened awareness of what happens when we allow citizens to use the tyranny of the threat of violence in order to further a particular political dogma. This bill is not about Freeman or militia, it is about anyone. We cannot allow individuals to use that type of tyranny to further their ideas. How would they do that? They do that by making sure good citizens do not serve in public office. No public officer should pay the price of watching their loved ones be threatened and their property destroyed in order to influence their decision.

shouldn't be any legal impediments to doing so, but they still had a lot of concerns about these reciprocity agreements. They conceded to Mr. Marbut's statement that they were a little bit behind the times in terms of concealed weapons and they were not very comfortable with a blanket invitation to enter in these agreements. They felt that the advisory council ought to be established to provide some additional guidance and knowledge and they would advise that council if they didn't feel it would be wise to enter into agreements until this council has had a chance to function during at least one interim, even though there are not legal barriers to doing so in the law itself.

SENATOR HALLIGAN felt it would not be necessary to segregate the amendments.

Motion/Vote: SENATOR HALLIGAN MOVED TO AMEND HB 232. The motion CARRIED UNANIMOUSLY by oral vote.

Motion: SENATOR BAER MOVED HB 232 BE CONCURRED IN AS AMENDED.

Discussion: SENATOR JABS stated that he had a problem with the sheriff providing written notice as to why an application is denied. He believed that would open up a lawsuit for defamation of character.

Mr. Marbut stated in the underlying concealed weapon permit law there is a provision which immunizes the sheriff from liability due to what he does or does not do about permits.

SENATOR GROSFIELD stated that he is still concerned that they are putting people on notice that they are under criminal investigation.

Vote: The motion CARRIED by oral vote with SENATORS BARTLETT, GROSFIELD, and JABS voting "NO".

EXECUTIVE ACTION ON HB 347

Motion/Vote: SENATOR BAER MOVED HB 347 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY on oral vote.

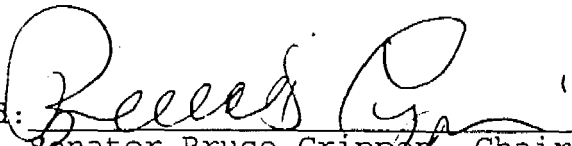
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 8, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration HB 347 (third reading copy -- blue), respectfully report that HB 347 be concurred in.

Signed:


Senator Bruce Crippen, Chair


Amd. Coord.
Sec. of Senate


Senator Carrying Bill

541206SC.SPV

DATE 3/8/95

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 253 HB 157
~~HB 253~~ HB 214 HB 347

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Check One

Name	Representing	Bill No.	Support	Oppose
W James Kember	City of Billings	HB 347	✓	
Jane Christman	HB 214, HB 157	→	✓	
Derek VanLuchene		214, 157	✓	
John Connor	Attorney General's Office	HB 347 157-214	✓	
Pat Melbey	State Bar of MT	HB 253	✓	
Blake Wordal	Lewis & Clark Co.	HB 347	✓	
Judge Mordha C. Bittel	Hamilton County	HB 347	✓	
Brad Martine	MT Democratic Party	HB 347	✓	
Dave Otten	Dept Corrections	HB 157	✓	
Sandy Heater	"	HB 157	✓	
JOHN STRANDELL	CASCADE County	HB 214 HB 157	✓	
Lee Hansen Field	Flithead Co/MIAER	HB 347	✓	
Christine Kaufmann	MT Human Rights Network	HB 157 HB 347	Amend ✓	
Edmund Caplis	MBCA	HB 347	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY